

# EXHIBIT 1

Michael Malone

August 22, 2022

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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HUNTERS CAPITAL, LLC, et al.,     )  
  Plaintiffs,     )  
  vs.                     ) No. 20-cv-00983-TSZ  
CITY OF SEATTLE,                     )  
  Defendant.         )  
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ZOOM VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION  
OF  
MICHAEL MALONE

-----  
ATTENDANCE OF ALL PARTICIPANTS VIA  
ZOOM VIDEO CONFERENCE  
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9:00 a.m.  
August 22, 2022

REPORTED BY: Lauren G. Harty, RPR, CCR #2674

1 it's a -- it's a trust structure between managing the  
2 trust properties. I -- the holdings I believe is --  
3 is the ownership, which is the trust, myself, and a  
4 couple other minority shareholders.

5 Q. So are you a member in -- in that, an owner  
6 of -- of that holding company in those buildings?

7 A. You know, I'm just -- I -- I can't answer  
8 that.

9 Q. Okay.

10 Are your children owners through various  
11 trusts of that -- of those buildings?

12 A. Yes. I mean, to -- to be clear, I mean,  
13 the -- the trust -- my children's trust is a 49  
14 percent owner of all the business.

15 Q. Okay.

16 And if they're a 49 percent owner, who owns  
17 the remainder?

18 A. Myself and Mike Oaksmith and Jill Cronaeur.

19 Q. And what percentages do they own, if you  
20 know?

21 A. Yeah. I -- I don't know, but I would say  
22 Oaksmith is approximately 6 percent and Jill is 3 or 4  
23 percent.

24 Q. And how did they come to be owners of the --  
25 the Hunters Property properties?

1 A. Yes.

2 Q. And did she have anybody that assisted her?

3 A. Yes.

4 Q. And who were -- who was that?

5 A. I can't remember their names, but it -- a  
6 couple of people that -- that, you know, will operate  
7 the building and -- and deal with specific  
8 relationships.

9 Q. And -- so would Kayla have been the point  
10 person for the residential tenants in the Broadway  
11 Building then?

12 A. Yes.

13 Q. Okay.

14 And does that include the students too or is  
15 that different?

16 A. That's different.

17 Q. Okay.

18 And would that include the tenant -- the  
19 residential tenants in the Dunn Automotive Building as  
20 well?

21 A. Yes.

22 Q. Okay.

23 And -- was there a separate set of people  
24 who managed the commercial tenants under Jill?

25 A. Jill manages the commercial tenants. I

1 mean, commercial tenants are -- you know, there's --  
2 there's fewer of them. You know, they're on longer  
3 leases. It's a different kind of relationship.

4 Q. And then who's the -- the CFO at -- at  
5 Hunters?

6 A. Lindsey Jensen.

7 Q. And who was the CFO before her? Was that  
8 Sandy Allen?

9 A. Sandy Allen.

10 Q. And when did Ms. Allen leave?

11 A. About three and a half years ago.

12 Q. Do you recall whether Ms. Allen was in that  
13 role during the summer of 2020?

14 MR. REILLY-BATES: Object to the form.

15 A. I don't -- I don't recall.

16 Q. (By Mr. Cramer) But she was directly  
17 replaced by Lindsey Jensen?

18 A. Correct.

19 Q. And what -- what is --

20 MR. CRAMER: Strike that.

21 Q. (By Mr. Cramer) What was Ms. Allen's role at  
22 Hunters Capital?

23 A. CFO.

24 Q. And so what was she responsible for?

25 A. Financials, banking relationships.

Michael Malone

August 22, 2022

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1 A F T E R N O O N S E S S I O N

2 1:15 p.m.

3 August 22, 2022

4 P R O C E E D I N G S

5 THE VIDEOGRAPHER: The time is 1:15 p.m. We  
6 are back on the record.

7 E X A M I N A T I O N

8 (Continued)

9 BY MR. CRAMER:

10 Q. Mr. Malone, you understand you're still  
11 under oath, correct?

12 A. I do.

13 Q. Okay.

14 A couple of questions I forgot to ask you

15 earlier today. What is your title with Hunters

16 Capital?

17 A. Chairman and CEO.

18 Q. Okay.

19 And so you don't report to anyone, correct?

20 You're --

21 A. Yes.

22 Q. Okay.

23 And does your wife have --

24 A. I'm --

25 Q. -- any --

1 Q. Okay.

2 But -- but that's an accurate statement of

3 what she told you.

4 A. Oh, I -- yes. I -- I repeated it.

5 Q. Okay.

6 A. However, you would have to question the

7 credibility of my wife.

8 Q. If you'd scroll down to -- to row 659.

9 A. Yep. Got --

10 Q. Okay.

11 A. -- it.

12 Q. So this is another text from you to Jill and

13 Oaksmith, and it says, "Hi Mike it's Ron Amundson.

14 Just wanted to let you know that there are people down

15 behind our building on 10th. They've taken a ladder

16 and climbed the fence on the Poquito side. I think it

17 would be a good idea to board up access. I'm afraid

18 some bad actors might break in to your windows that

19 are down low. Call if you want. Thanks."

20 And then there's a space, and then you say,

21 "Oak, just got this from Ron. Not sure what it means.

22 So FYI!"

23 So I -- I just -- the -- the format of this.

24 So is -- are you cutting and pasting a text you got

25 from Ron Amundson and sending it to Oaksmith and Jill?

1 Is that what this is?

2 A. Yes.

3 Q. Okay.

4 And -- and then the next line is Oaksmith's  
5 response. "If they get into the glossier space/pike  
6 basement they are going to get the shit beat of them  
7 by the gun carrying crew from Idaho building that  
8 place out!! I'll warn rusty and his guys anyhow and  
9 check out that back area in the am!!" And then Jill  
10 loves that message.

11 What's the -- do you -- do you see that?

12 A. Yeah.

13 Q. Okay.

14 What's the -- what's the Glossier space?

15 A. Glossier is a -- was a retailer that was in  
16 the midst of putting about a million dollars' worth of  
17 tenant improvements into a space before COVID and CHOP  
18 started, and they -- the contractor, who happens to be  
19 from Idaho, was in there working and -- and that's --  
20 you know, he's a cowboy with a gun, so --

21 Q. And there was never an incident in the  
22 Glossier space/Pike basement, right?

23 A. No.

24 Q. Okay.

25 Scroll down to line 673. And this is



1 Q. Go down to 733. This is a text from you to  
2 Jill and Michael Oaksmith from 12/14/2020. The body  
3 of the text looks like a message to someone named  
4 Mark. Is this another one, like you described  
5 earlier, that's a cut and paste of a text that was  
6 with someone else that you were sharing with Mike and  
7 Jill?

8 MR. REILLY-BATES: Object to the form.  
9 Objection to the extent it misstates the -- the  
10 record.

11 You can answer if -- if you understand the  
12 question.

13 A. I -- I don't understand the question.

14 Q. (By Mr. Cramer) Okay.

15 Who is -- who is Mark in -- in the body of  
16 the text at line 735?

17 MR. REILLY-BATES: Oh. I'm sorry. We  
18 thought you said 733. Okay.

19 THE WITNESS: So it's this one?

20 MR. REILLY-BATES: This one, yeah.

21 A. Well, I don't know, but I think they own a  
22 building up on -- up on Broadway on -- that is on  
23 Nagle --

24 Q. (By Mr. Cramer) Okay.

25 A. -- because it's a -- Mill Creek is their

1 partner.

2 Q. And so this is a text that you sent to that  
3 person, Mark, that you have cut and pasted into a text  
4 to Jill and Oaksmith; is that --

5 MR. REILLY-BATES: Object --

6 Q. (By Mr. Cramer) -- correct?

7 MR. REILLY-BATES: Object to the form; calls  
8 for speculation, foundation.

9 Q. (By Mr. Cramer) Is -- is that correct? Is  
10 that what this is?

11 A. I think so, yes.

12 Q. Okay.

13 And now we'll go up to 733. Is 733 a cut  
14 and paste of a text message that you exchanged with  
15 Mayor Durkan that you are sharing with Michael  
16 Oaksmith and Jill Cronaeur?

17 A. Yes.

18 Q. Okay.

19 And going back to line 735, Mark is who do  
20 you believe with res -- with --

21 A. I --

22 Q. -- relation to --

23 A. I --

24 Q. -- the Mill Creek company?

25 A. I -- I think he's with Gerding Ell -- Eden,

1 A. No.

2 Q. Okay.

3 And then it references -- I assume you are

4 MM? Is that how --

5 A. Yes.

6 Q. Okay.

7 A. Yes.

8 Q. "MM said something about a table at car  
9 barn. I would hate for him to appear tone deaf by  
10 showing cars and not abiding by covid... gathering  
11 rules."

12 What -- what kind of table at car barn were  
13 you contemplating?

14 MR. REILLY-BATES: Objection; assumes facts  
15 not in evidence, calls for speculation, foundation.

16 A. Yeah. I have no idea what she's talking  
17 about, so it's very difficult, impossible for me to  
18 answer your question.

19 Q. (By Mr. Cramer) Okay.

20 Scroll down to 866. This is an email --  
21 or -- I'm sorry. It's not an email.

22 MR. CRAMER: Strike that.

23 Q. (By Mr. Cramer) This is a text message you  
24 sent to Jill and -- just Jill on October 2nd, 2020.  
25 The body looks like it's addressed to Liz. Do you

1 know who Liz is?

2 A. Liz Dunn, a building owner in the Pike-Pine.

3 Q. Okay.

4 So is this another example of a cut and  
5 paste of a text that you would have sent to Liz Dunn  
6 that you're sharing with --

7 A. That's correct.

8 Q. -- Ms. Cronaeur?

9 MR. REILLY-BATES: Objection; foundation,  
10 calls for speculation.

11 Q. (By Mr. Cramer) And do you recall whether  
12 Ms. Dunn responded to the text message that you sent  
13 to her?

14 A. I -- I don't remember.

15 Q. Okay.

16 A. This -- this is all part of an effort for us  
17 to try to kind of activate the neighborhood after  
18 CHOP; you know, get people to take the boards off  
19 their windows and make it look more like a  
20 neighborhood to, you know, open things back up.

21 Q. Now, scroll down to 868 and -- and tell me  
22 what the -- what the message that you were sending  
23 in -- in 868 was regarding.

24 A. Well, I -- I think it's --

25 MR. REILLY-BATES: Ob- --

1 A. I -- I -- you're asking if it was -- if the  
2 lawsuit was my idea or -- or Oaksmith's idea?

3 Q. (By Mr. Cramer) Yes.

4 A. There -- it was definitely the community's  
5 idea to how -- how do we -- how do we accelerate the  
6 end to this madness, and so it wasn't very difficult  
7 getting a group together. And -- and the question  
8 was, you know, how -- how do you -- how could we have  
9 an effective lawsuit.

10 Q. And your testimony earlier today was that --  
11 that the idea started with you or you and Mr. Oaksmith  
12 and -- and Ms. Cronaeur. Is that -- is that accurate?  
13 And then you brought it to the community?

14 MR. REILLY-BATES: Object to the form;  
15 mischaracterizes the pri -- earlier testimony.

16 THE WITNESS: So I should --

17 MR. REILLY-BATES: You can -- you can  
18 answer.

19 THE WITNESS: Yeah.

20 A. I -- yeah. I think it was -- it was a group  
21 effort and -- and -- and I think we probably  
22 spearheaded it.

23 Q. (By Mr. Cramer) Okay.

24 And my question is did -- did you spearhead  
25 it and is that what you're referencing when you say,

1 2020?

2 MR. REILLY-BATES: Objection; foundation.  
3 You haven't established that Mr. Malone was involved  
4 in those decisions.

5 A. Again, I -- I -- I -- I think it's  
6 understood when you -- when you go into a lawsuit that  
7 you -- you have to preserve everything. And -- that's  
8 one. And two, there's absolutely nothing we have  
9 reason to hide and -- and so it wasn't of a concern or  
10 issue.

11 Q. (By Mr. Cramer) Okay.

12 So you understood going into the lawsuit  
13 that you had an obligation to preserve your text  
14 messages.

15 A. I already said that.

16 Q. Did you ask anyone to assist you in making  
17 sure that you didn't lose your text messages?

18 A. I did not.

19 Q. Did you work with Mike Oaksmith or Jill  
20 Cronaeur to make sure that you didn't lose your text  
21 messages from June of 2020?

22 A. I did not.

23 Q. Did you work with anybody to make sure  
24 that -- that everyone with relevant text messages knew  
25 that they were not to delete them?

1 MR. REILLY-BATES: Objection; vague,  
2 foundation, vague as to everyone.

3 A. Yeah. I -- no.

4 Q. (By Mr. Cramer) Did you collect Kayla's text  
5 messages before she left?

6 MR. REILLY-BATES: Objection; foundation.  
7 You haven't established if this -- this witness has  
8 had any interaction with that.

9 A. Yeah. Kayla didn't report to me. I -- I  
10 have -- no, I did not.

11 Q. (By Mr. Cramer) And -- but you testified  
12 earlier -- what's -- what's Kayla's last name, Miller?

13 A. No.

14 Q. I'll refer to her as Kayla.  
15 -- that Kayla --

16 MR. CRAMER: Strike that. Let me start  
17 over.

18 Q. (By Mr. Cramer) You testified earlier that  
19 Kayla was the point person for the residential tenants  
20 when she worked at Hunters Capital; is that correct?

21 A. Right.

22 Q. Okay.

23 And are you -- do you know whether Kayla  
24 communicated with those tenants via text?

25 MR. REILLY-BATES: Objection; foundation.

1 Q. (By Mr. Cramer) Regardless of -- of what you  
2 thought might happen on the back end, is it correct  
3 that you periodically swiped to delete texts on your  
4 phone?

5 A. Yeah.

6 Q. Okay.

7 And did you do that routinely?

8 A. I just -- just clean out my phone, but I --  
9 but -- I don't know.

10 Q. And did you do that in 2020?

11 A. I -- yeah. I don't -- you -- I don't  
12 even text that much under certain circ -- most  
13 circumstances.

14 Q. We've -- we've reviewed today a number of  
15 texts that you sent --

16 A. Right.

17 Q. -- correct?

18 A. And emails.

19 Q. Okay.

20 And -- and so -- you do text, correct?

21 A. Yes.

22 Q. Okay.

23 And you did text in June of 2020, correct?

24 A. Somewhat, yeah.

25 Q. And you texted in July of 2020, correct?



1 A. Yes.

2 Q. Okay.

3 And August of 2020 and September of 2020,

4 correct?

5 A. Yeah.

6 Q. Okay.

7 And did you text in those time periods about  
8 what was going on at Cal Anderson Park?

9 A. I don't recall.

10 Q. Did you -- well, we've -- we've reviewed  
11 texts here today where you texted about Cal Anderson  
12 Park, correct?

13 A. Okay.

14 Q. Okay.

15 Did you send -- did you send texts with  
16 other people during that time period about Cal  
17 Anderson Park?

18 MR. REILLY-BATES: Object to the form; vague  
19 as to other people.

20 MR. CRAMER: I'd be more precise, but he  
21 deleted his texts.

22 Q. (By Mr. Cramer) Mr. --

23 A. Okay.

24 Q. -- Malone, did you text with anyone else  
25 other than Ms. Cronaeur and Mr. Oaksmith about what

1 A. I left them in my Inbox.

2 Q. So you -- why weren't they there on -- in --  
3 on May 3rd, 2021?

4 A. I -- I --

5 MR. REILLY-BATES: Objection; asked and  
6 answered. He already testified he doesn't know.

7 MR. CRAMER: Well, he's now changed his --  
8 his testimony, so --

9 Q. (By Mr. Cramer) I want to be real clear.  
10 You're under oath, Mr. Malone.

11 A. Yeah. Right.

12 Q. Is -- is it your testimony that you  
13 periodically cleaned out your message history --

14 A. No.

15 Q. -- on your phone?

16 A. No. I -- I have never cleaned out my  
17 history. I'll go sometimes and clean out text  
18 messages because I think I'm, you know, improving the  
19 power of my phone or something, but it's -- but  
20 they're random messages.

21 Q. Okay.

22 So you did periodically swipe to delete the  
23 text messages from the message app on your phone.

24 A. Yes.

25 Q. Okay.

1 A. Just the iCloud, as --

2 Q. And --

3 A. -- mentioned here.

4 Q. So you were -- you did back up to iCloud?

5 A. No.

6 MR. REILLY-BATES: Objection; misstates his  
7 testimony. He just said that he searched iCloud.

8 Q. (By Mr. Cramer) And there was nothing  
9 located on your -- your iCloud account?

10 A. Yeah. It wasn't me, so I -- I mean, I  
11 wasn't searching, so -- I'm just reading the letter.

12 Q. Do you know who did the searching?

13 A. I do not.

14 Q. And then it says, "Mr. Malone avers that  
15 he did not intentionally delete any communications  
16 relating to this case..."

17 A. Correct.

18 Q. Okay.

19 But I -- I want to -- I want to make clear,  
20 you did, however, occasionally swipe to delete the  
21 copy of the messages on your phone, correct?

22 MR. REILLY-BATES: Objection; misstates the  
23 witness' prior testimony. He testified that he did  
24 not do that with any documents relevant to this case.

25 Q. (By Mr. Cramer) Did you do --

1 A. Correct.

2 Q. -- that --

3 Go ahead.

4 A. That's correct.

5 Q. Okay.

6 So when you were -- did you do that with --  
7 with other text messages that weren't -- that you  
8 didn't feel were relevant to this case?

9 A. Sorry?

10 Q. Did -- did you clean your Inbox with  
11 messages that you didn't think were relevant to this  
12 case?

13 A. I didn't -- I didn't clean any messages that  
14 would be relevant to this case.

15 Q. Did --

16 A. I --

17 Q. -- you --

18 A. -- think the issue is there was no history  
19 from March 26 back. And I certainly did not at any  
20 time take my phone and -- and -- and delete all my  
21 history.

22 Q. Okay.

23 But you did periodically swipe to delete  
24 individual messages on your phone, right?

25 A. Sometimes, yeah.

## C E R T I F I C A T E

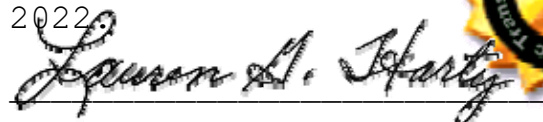
STATE OF WASHINGTON )  
 ) ss.  
 COUNTY OF KING )

I, the undersigned Washington Certified Court Reporter, hereby certify that the foregoing deposition upon oral examination of MICHAEL MALONE was taken before me on August 22, 2022, and transcribed under my direction;

That the witness was duly sworn by me pursuant to RCW 5.28.010 to testify truthfully; that the transcript of the deposition is a full, true, and correct transcript to the best of my ability; that I am neither attorney for nor a relative or employee of any of the parties to the action or any attorney or counsel employed by the parties hereto, nor am I financially interested in its outcome;

I further certify that in accordance with CR 30(e), the witness was given the opportunity to examine, read, and sign the deposition within 30 days upon its completion and submission, unless waiver of signature was indicated in the record.

IN WITNESS WHEREOF, I have hereunto set my hand  
 this 29th day of August, 2022

  
 LAUREN G. HARTY, CCR #2674

